

Notice of Allowability**Application No.**

10/678,778

Examiner

Anne Marie Grunberg

Applicant(s)

RUBIO, IGNACIO ABASCAL

Art Unit

1661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to papers filed 6/30/04.
2. ☒ The allowed claim(s) is/are 1.
3. ☒ The drawings filed on 02 October 2003 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☒ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 07/07/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

Examiner's Amendment

1. An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the Issue Fee.

The following changes were authorized (and permission to make same by Examiner's amendment was granted) by Cynthia Bonner in the course of a telephonic interview with Examiner Grünberg on September 29, 2004:

IN THE SPECIFICATION

At page 1, line 13, at the end of the sentence, the following sentences have been inserted:

-- 'Carmela' can be compared to the female parent 86-032 in that both have conical shaped fruit. However, 'Carmela' differs from the female parent in that the inflorescences of 86-032 are above the foliage whereas the inflorescences of 'Carmela' appear level with the foliage. 'Carmela' can be compared to the male parent 9261 in that both have inflorescences that are level with the foliage. However, 'Carmela' differs from the male parent in that the fruit is conical whereas the male parent has cylindrical shaped fruit.—

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At page 7, between lines 14 and 15, a divisional line has been inserted such the lines read as follows: -- (%) Dry Matter = Weight Dry Matter x 100

Weight Fresh Matter --


At page 7, between lines 22 and 23, a divisional line has been inserted such the lines read as follows: -- Maturity Index = Soluble solids

Acidity as Anhydride Citric --

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne Marie Grünberg whose telephone number is (571) 272-0975. The examiner can normally be reached from Monday through Thursday from 7:30 until 5:00, and every other Friday from 7:30 until 4:00.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Andrew Wang, can be reached at (571) 272-0811. The fax number for the unit is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-1600.


ANNE MARIE GRUNBERG
PRIMARY EXAMINER